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**VIA ECFS**

EX PARTE

July 26, 2013

Ms. Marlene H. Dortch  
Secretary  
Federal Communications Commission  
445 12th Street SW  
Washington, DC 20554

Re: *Rates for Interstate Inmate Calling Service*, WC Docket No. 12-375

Dear Ms. Dortch:

On July 24, Jeb Benedict and Paul Cooper met with Rebekah Goodheart in Acting Chairwoman Clyburn's office, joined by Travis Litman, Assistant Chief of the Wireline Competition Bureau's Telecommunications Access Policy Division.

CenturyLink explained that it understands the social benefits of economical inmate calling services. However, it operates in a high-cost environment, and with profit margins consistent with the very high level of competition in this market. CenturyLink does not believe that rate caps are appropriate or workable for the reasons stated in its prior filings in this docket. However, if changes are to be made, the Commission should not make abrupt changes in policy that could make existing public contracts uneconomic. CenturyLink has made very large investments in long-term public contracts. In Texas, for example, CenturyLink has spent tens of millions of dollars building calling infrastructure for the prison system. Service providers cannot readily renegotiate publicly-awarded contracts, so it's important that, if a change is to be made, they be given a fair and reasonable transition time to any newly ordered rate structure.

CenturyLink also explained that service rates are determined by correctional authorities. That includes commissions many authorities require to make the service available. Service providers cannot simply modify rates or commissions. In Texas, the commission on inmate calling services is set by statute and applied by state correctional authorities by contract. Although eight states have taken steps to discontinue their reliance on commissions, many authorities still rely on call commission revenue.

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CenturyLink said that the FCC needs to exercise caution in making new policies on inmate calling services. Regulating rates, setting caps or benchmarks, or limiting commissions can lead to unintended consequences. Some of these may undermine necessary security features; many may ultimately undermine intended benefits for inmate families. They may also lead reputable providers to decline to bid on new business.

CenturyLink noted that ancillary fees can have a major impact on calling costs. Per-call or transaction fees are not inappropriate if they are recovering costs, but some inmate calling service providers impose unreasonable fees. CenturyLink notes that Pay Tel's comments (submitted in this docket July 17, 2013) show how some per transaction fees are appropriate to recover costs, such as surcharges for bill payment through Western Union. However, some providers rely on unreasonable per-call fees to raise the cost of inmate calling. One example is use of enhanced text messaging for collect billing to cell phones. CenturyLink argued that when examining rates, the Commission should include all associated per-call fees.

CenturyLink added that the Commission should not try to compel unreasonably low calling rates. Security technology on inmate calling platforms is advancing to meet the needs of new communications options. In the past few years, CenturyLink's calling platform has been upgraded to include features such as voice biometrics, tracking location of cell phones receiving calls, link analysis software, audio word search, and contraband cell phone extraction equipment and integration. These capabilities are provided through third-party specialized security firms, and royalties and/or other payments on these capabilities alone can add 4 to 5 cents per minute to the cost of carrying a call. Additional capabilities are also in development. These costs also do not consider the cost to correctional facilities for the investigative staff required to use these features. The inability to fund security advancements, due to rate caps, would necessarily lead to limits on calling at some facilities.

CenturyLink also noted that uniform calling rates cannot be expected across all correctional facilities. Inmate advocates have cited the New York Department of Correction's \$0.048/minute rate as a standard. CenturyLink does not provide service at New York facilities. But CenturyLink is familiar with the contract and knows that, because it is approximately 5 years old, it does not include advanced security features that are increasingly expected or demanded. In addition, small prison systems usually require higher rates than large systems, where the bigger inmate populations can better support the facilities investment.

In concluding the meeting, CenturyLink outlined recommendations for any Commission order affecting inmate calling services. It recommended (1) limiting new rules to new or extended contracts, or deferring the issue of existing contracts to a Further Notice of Proposed Rulemaking for additional record development. It suggested (2) adopting an interstate rate benchmark, not a rate cap. Where an interstate rate exceeds the benchmark, a party could bring a complaint to the Commission, where the carrier would be obliged to defend the higher rate. It suggested (3) allowing a Further Notice of Proposed Rulemaking, with a protective order, to develop an appropriate record on costs of services and the impact of policy change on future availability of

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calling services. It recommended (4) defining rate broadly, to include all associated fees and charges. It encouraged (5) exempting small facilities (those with fewer than 100 inmates, except where incidental to a larger department-wide contract), juvenile centers, and secure mental health facilities, given their higher costs, or deferring them to an FNPRM for a better developed record on their particular needs. Finally, because public procurement contract terms are set, not negotiated, CenturyLink said the Commission (6) should word any order in a way that facilitates contract revisions under force majeure where necessary.

Pursuant to Section 1.1206(b) of the Commission's rules, a copy of this notice is being filed in the appropriate docket.

Sincerely,

/s/ John E. Benedict

Copy via email to:

Rebekah Goodheart  
Travis E. Litman